



Registration of a Charge

Company name: **COTT BEVERAGES LIMITED**

Company number: **02836071**



X5IXRJS3

Received for Electronic Filing: **02/11/2016**

Details of Charge

Date of creation: **31/10/2016**

Charge code: **0283 6071 0011**

Persons entitled: **JPMORGAN CHASE BANK, N.A., LONDON BRANCH AS SECURITY TRUSTEE**

Brief description: **LAND AT SPECTRUM BUSINESS PARK, WREXHAM LL13 9QA, REGISTERED AT HM LAND REGISTRY UNDER TITLE NO. CYM252648; UNIT E, SPECTRUM BUSINESS PARK, WREXHAM INDUSTRIAL ESTATE, WREXHAM LL13 9QA, REGISTERED AT HM LAND REGISTRY UNDER TITLE NO. CYM254533. SEE INSTRUMENT FOR FURTHER DETAILS.**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BRIDGET NICHOLS, CMS CAMERON MCKENNA LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2836071

Charge code: 0283 6071 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st October 2016 and created by COTT BEVERAGES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd November 2016 .

Given at Companies House, Cardiff on 3rd November 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATE: 31 October

2016

**SUPPLEMENTAL DEED
TO A DEBENTURE DATED 17 AUGUST 2010 AND A
DEBENTURE DATED 3 AUGUST 2016**

Between

COTT BEVERAGES LIMITED
(as Chargor)

and

JPMORGAN CHASE BANK, N.A., LONDON BRANCH
(as Security Trustee)

CMS Cameron McKenna LLP
Cannon Place
78 Cannon Street
London EC4N 6AF
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F +44 20 7367 2000
THSI/NEJA/128508.0009

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THIS DEED is made on 31 October 2016

BETWEEN:

- (1) **COTT BEVERAGES LIMITED** (Company Number 02836071) whose registered office is at Citrus Grove, Sideley, Kegworth, Derby DE74 2FJ (the "**Company**"); and
- (2) **JPMORGAN CHASE BANK, N.A., LONDON BRANCH** of 125 London Wall, London EC2Y 5AJ in its capacity as security trustee for the Secured Parties (as defined in the Debentures (defined below)) (the "**Security Trustee**").

WHEREAS

- (A) The Company enters into this Deed in connection with a credit agreement originally dated 17 August 2010 and made between, among others, Cott Corporation Corporation Cott, Cott Beverages Inc., Cott Beverages Limited, Cliffstar LLC and the other Loan Parties party thereto as Borrowers, the other Loan Parties party thereto, the Lenders party thereto, the Security Trustee as UK Security Trustee, JPMorgan Chase Bank, N.A., as Administrative Agent and Administrative Collateral Agent (as amended and restated pursuant to the terms of an amendment and restatement agreement dated 3 August 2016 as further amended and/or restated from time to time) (the "**Credit Agreement**") pursuant to which a facility of up to \$600,000,000 was made available to the Borrowers.
- (B) The obligations of the Borrowers arising, *inter alia*, under or pursuant to the Credit Agreement are secured, *inter alia*, by a debenture dated 17 August 2010 and made between (1) the companies named in schedule 1 thereto, and (2) the Security Trustee and a supplemental debenture dated 3 August 2016 and made between (1) the companies named in schedule 1 thereto, and (2) the Security Trustee (together the "**Debentures**").
- (C) Pursuant to the Debentures the Company has agreed to enter into this Deed.

NOW THIS DEED WITNESSES as follows:

1. Interpretation

Definitions

- 1.1 Unless the context otherwise requires or unless otherwise defined in this Deed, words and expressions defined in the Debentures shall have the same meaning when used in this Deed.

Definitions

- 1.2 In this Deed, unless the context otherwise requires:

"New Mortgaged Property": the freehold and leasehold property the subject of the security constituted by this Deed and references to any "**New Mortgaged Property**" shall include references to the whole or any part or parts of it.

Successors and assigns

- 1.3 The expressions "**Company**", "**Borrower**", "**Secured Parties**" and "**Security Trustee**" include, where the context admits, their respective successors, their respective transferees and assignees, whether immediate or derivative and, in the case of the Security Trustee, shall include any person for the time being appointed as Security Trustee or as an additional Security Trustee for the purpose of, and in accordance with, the Credit Agreement.

Construction

- 1.4 Clauses 1.4 to 1.13 (*Construction*) of each of the Debentures shall be deemed to be incorporated in this Deed as if reference in such clauses to "**this Debenture**" were references to this Deed.
- 1.5 It is intended that this document shall take effect as and be a deed of the Chargor notwithstanding the fact that the Security Trustee may not execute this document as a deed.
- 1.6 This Supplemental Deed is designated as a Loan Document.

2. Covenant to Pay

Covenant to Pay

- 2.1 The Company covenants with the Security Trustee (as trustee for the Secured Parties) that it will pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Loan Documents or, in the absence of any such express terms, on demand.

3. Fixed Charge

Fixed Charge

- 3.1 The Company with full title guarantee and as a continuing security for the payment, performance and discharge of all the Secured Liabilities charges in favour of the Security Trustee (as trustee for the Secured Parties) by way of first fixed charge all of the Company's right, title and interest in the freehold and leasehold property specified in the Schedule (*New Mortgaged Property*).
- 3.2 For the avoidance of doubt and without prejudice to Clause 4 (*Incorporation of Provisions of Debenture*), any reference in this Deed to a charge of any New Mortgaged Property shall be construed so as to include:
 - 3.2.1 the benefit of any covenants for title given or entered into by any predecessor in title of the Company, and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities, in respect of that New Mortgaged Property;
 - 3.2.2 the proceeds of sale of any part of, and any other moneys paid or payable in respect of or in connection with, that New Mortgaged Property; and
 - 3.2.3 all Premises and all fixtures and fittings (including trade fixtures and fittings and tenants' fixtures and fittings) from time to time in or on that New Mortgaged Property.

4. Incorporation of Provisions of Debentures

Incorporation

- 4.1 The parties to this Deed agree that all of the representations and warranties, obligations, undertakings, covenants, agreements, rights, powers, discretions, remedies, immunities and other provisions contained or referred to in the Debentures shall be deemed to be incorporated in this Deed *mutatis mutandis* and shall apply *mutatis mutandis* to the security constituted or intended to be constituted by Clause 3 (*Fixed Charge*) and to any New Mortgaged Property and all other property referred to in that Clause.

- 4.2 The Debentures and this Deed shall be read and construed together as one document and any reference in the Debenture to “this Deed” shall be read as a reference to the Debenture as supplemented by this Deed.
- 4.3 The definitions of “Security Assets” and “Mortgaged Property” in the Debentures shall, for the avoidance of doubt, include the New Mortgaged Property and all other property referred to in Clause 3 (*Fixed Charge*).

5. Perfection of Security

Registration at HM Land Registry

- 5.1 For the purposes of panel 8 of each Form RX1 that may be required to be completed by the Security Trustee in relation to any New Mortgaged Property registered or required to be registered at HM Land Registry, the Company hereby consents to an application being made by the Security Trustee to the Chief Land Registrar to enter the following restriction in Form P against the Company’s title to such New Mortgaged Property:

“No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of [JPMorgan Chase Bank, N.A., London Branch] as Security Trustee referred to in the charges register or, if appropriate, signed on such proprietor’s behalf by its secretary or conveyancer or other duly authorised officer”.

- 5.2 If the title to any New Mortgaged Property of the Company is not registered at HM Land Registry, the Company shall ensure that no person (other than itself) shall be registered under the Land Registration Act 2002 as the proprietor of all or any part of that New Mortgaged Property without the prior consent in writing of the Security Trustee.
- 5.3 Whether or not the title to any of the New Mortgaged Property is registered at HM Land Registry, in the event that any caution against first registration or any notice (whether agreed or unilateral) is registered against the Company’s title to any New Mortgaged Property, the Company shall promptly provide the Security Trustee with full particulars of the circumstances relating to such registration or notice and, if such caution or notice shall have been registered in order to protect a purported interest the creation of which is not permitted under this Deed, the Company shall immediately and at its own expense take such steps as the Security Trustee may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

Further Advances

- 5.4 Subject to the provisions of the Credit Agreement, each Lender is under an obligation to make further advances to the Borrowers under the Credit Agreement and that obligation will be deemed to be incorporated into this Deed as if set out in this Deed.

6. Enforcement

Automatic enforcement

- 6.1 If the security created by or pursuant to the Debentures in relation to all or any part of the undertaking and assets thereby charged shall become enforceable in accordance with their terms then the security created by or pursuant to this Deed in relation to the New Mortgaged Property shall also become immediately enforceable.

Powers of the Secured Parties

- 6.2 All the powers and remedies of the Security Trustee conferred by or pursuant to the Debenture are hereby vested in the Security Trustee in its capacity as trustee for the Secured Parties in relation to the Company and the New Mortgaged Property as if the provisions of the Debenture conferring the same were set out in full in this Deed.

7. Discretions and Delegation

Discretion

- 7.1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Security Trustee or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

Delegation

- 7.2 Each of the Security Trustee and any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney).
- 7.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Trustee or any Receiver (as the case may be) shall think fit.
- 7.4 Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to the Company for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

8. Power of Attorney

Appointment

- 8.1 The Company, by way of security, irrevocably appoints the Security Trustee, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
- 8.1.1 carrying out any obligation imposed on the Company by this Deed; and
- 8.1.2 enabling the Security Trustee or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including, after this Deed has become enforceable in accordance with Clause 5.1 (*Enforcement*), the exercise of any right of an absolute legal or beneficial owner of the New Mortgaged Property).

Ratification

- 8.2 The Company shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under Clause 7.1 (*Appointment*).

9. Exclusion of Liability

The provisions of clause 16 (*No Liability Mortgagee in Possession*) of each Debenture shall apply in relation to the New Mortgaged Property and the Company as if it were set out in full, *mutatis mutandis*, in this Deed.

10. Miscellaneous

Incorporation of other provisions

The provisions of clauses 9 (*Extension and Variation of the LPA*), 10 (*Appointment of Receiver and Administrator*), 11 (*Powers of Receiver*), 14 (*Protection of Purchasers*), 15 (*Application of Proceeds*), 18 (*The Security Trustee as Trustee*), 19 (*Effectiveness of Guarantee and Security*), 20 (*Payments*), 21 (*Expenses, Stamp Taxes and Indemnities*), 22 (*Assignment*), 23 (*Partial Invalidity*), 24 (*No Waiver*), 25 (*Notices*) and 26 (*Counterparts*) of each Debenture shall be deemed to be incorporated in this Deed in the same manner and to the same extent as if the same had been set out in full, *mutatis mutandis*, in this Deed.

11. Law and Jurisdiction

Governing Law

- 11.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of England and Wales.

Jurisdiction

- 11.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").
- 11.3 The Company agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary or take proceedings relating to a Dispute in any other courts.
- 11.4 Clauses 10.2 and 10.3 above are for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.
- 11.5 Without prejudice to Clauses 10.2 and 10.3 above, the Company further agrees that proceedings relating to a Dispute may be brought in any U.S. Federal or New York State court sitting in the Borough of Manhattan, New York, New York and irrevocably submits to the jurisdiction of such courts.
- 11.6 The Company irrevocably waives any right it may have to the trial by jury in any proceedings relating to a Dispute.

IN WITNESS whereof this Deed has been duly executed and delivered by or on behalf of the parties on the date stated at the beginning of this Deed.

The Schedule

New Mortgaged Property

(Freehold or leasehold property in England and Wales of which the Company is registered as the proprietor at the Land Registry)

Premises at:	County/District	Registered at HM Land Registry under Title No:
Land at Spectrum Business Park, Wrexham LL13 9QA	Wrexham	CYM252648
Unit E, Spectrum Business Park, Wrexham Industrial Estate, Wrexham LL13 9QA	Wrexham	CYM254533
Unit F, Spectrum Business Park, Wrexham Industrial Estate, Wrexham LL13 9QA	Wrexham	WA842199
Unit F, Spectrum Business Park, Wrexham Industrial Estate, Wrexham LL13 9QA	Wrexham	CYM271347
Land adjoining Unit F, Spectrum Business Park, Wrexham Industrial Estate, Wrexham LL13 9QA	Wrexham	CYM275568
Borehole Site lying to the south east of High Street, Tattenhall, Cheshire	Cheshire: Chester	CH437667

THE COMPANY

EXECUTED AS A DEED by
COTT BEVERAGES LIMITED
on being signed by:
..... M. VERNON
in the presence of:

)
)
)
)
)

Director

Signature of witness:

Name:

..... SIOBHAN YOLDS

Address:

Occupation:

..... ACCOUNTANT

THE SECURITY TRUSTEE

JPMORGAN CHASE BANK, N.A., LONDON BRANCH

By:

THE COMPANY

EXECUTED AS A DEED by)
COTT BEVERAGES LIMITED)
on being signed by:)
.....) Director
in the presence of:)

Signature of witness:

Name:

Address:

.....

Occupation:

THE SECURITY TRUSTEE

JPMORGAN CHASE BANK, N.A., LONDON BRANCH

By:

